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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

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**No. 775**

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GREAT SOUTHERN TRUCKING COMPANY, A CORPORATION, AND L. A. RAULERSON,

*Petitioners,*

*vs.*

NATIONAL LABOR RELATIONS BOARD.

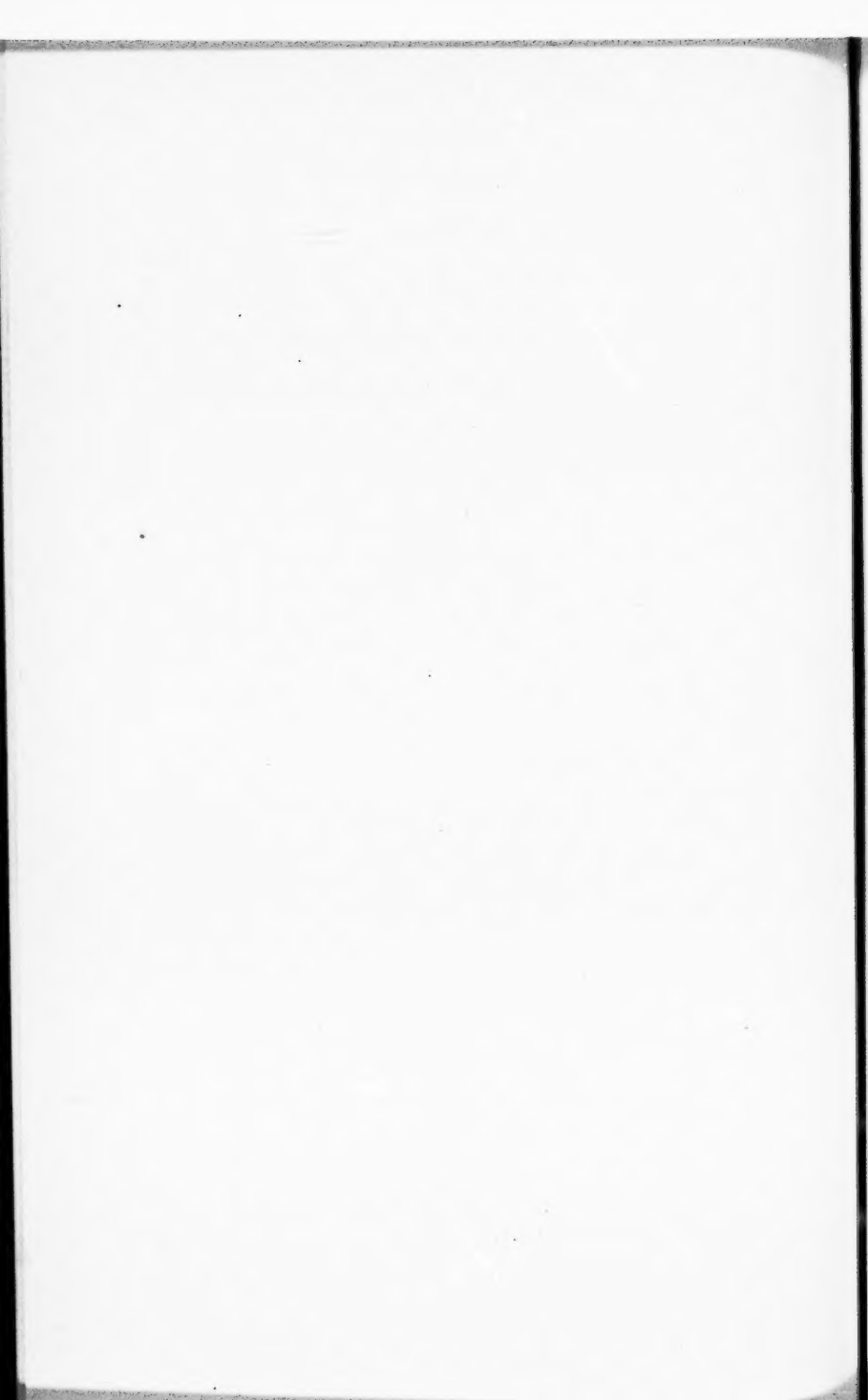
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**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE FOURTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.**

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WHITEFORD S. BLAKENEY,  
*Counsel for Petitioners.*

GUTHRIE, PIERCE & BLAKENEY,  
*Of Counsel.*



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*Petitioners,*

*vs.*

NATIONAL LABOR RELATIONS BOARD.

---

**PETITION FOR WRIT OF CERTIORARI.**

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The petitioners respectfully present to the Court that:

1. The petitioner, Great Southern Trucking Company, is a corporation engaged as a common carrier in the business of transporting commodities by motor truck in several southeastern States, including North Carolina. The petitioner, L. A. Raulerson, is an officer of Great Southern Trucking Company, to-wit, its President.

2. On or about December 1, 1939, the National Labor Relations Board instituted a proceeding against the petitioner, Great Southern Trucking Company, under the National Labor Relations Act. After a hearing, the Board's Trial Examiner reached conclusions and made recommendations

to the Board in favor of the Company with respect to the matters hereinafter dealt with. The Board, however, on August 26, 1941, reversed these findings and recommendations on the part of its Trial Examiner and issued a decision and order against the Company. The affirmative provisions of the Board's order directed that the Company reinstate in its employ forty former employees whom it had discharged at the time of a strike at its Charlotte, North Carolina, terminal in September of 1939, that the Company pay back wages to such employees, that the Company upon request bargain collectively with the Union, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, which represented these employees at the time they went on strike, and finally, that the Company post notices in its terminals stating that it would comply with the terms of the Board's order.

3. Upon petition for review, the United States Circuit Court of Appeals for the Fourth Circuit affirmed the Board's decision and order and thereafter, petition for writ of certiorari having been denied by this Court on October 12, 1942, said decision and order became final.

4. Thereupon, the Company immediately set about to comply with the terms of the Board's order. It posted notices in its terminals, setting forth all the provisions of said order and stating that it would "abide and comply" therewith. It paid to the former employees mentioned above back wages as computed by the Board. It offered to all of them restoration to their former jobs or, as the Board's order provided, to jobs substantially equivalent. However, only seven of these individuals accepted such offer and of these seven, three have since of their own volition quit the Company's employ, three are in the United States armed services, and one is unable to work on account of physical



disability, so that of these former employees, none is now in the employment of the Company.

5. Thereupon, the only affirmative provision of the Board's order which remained to be complied with was the direction that upon request from the Union named above, the Company should bargain collectively with that Union as exclusive representative of the Company's Charlotte employees. The Union, however, did not request the Company to bargain until shortly prior to February 9, 1943, on which date representatives of the Company met with representatives of the Union for a conference relative to collective bargaining under the Board's order.

6. Prior to such meeting, however, the Company had received, on February 2, 1943, in the regular course of mail, a copy of a paper-writing in the nature of a petition, purporting to be signed by a great majority of the Company's Charlotte employees and stating that those signing had observed the provisions of the notice posted by the Company relative to the Company's bargaining with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America as their exclusive representative, that none of them belonged to this Union, that they did not want this Union "to represent" them "in any way", and that they desired a hearing or an election "to show" this to be their "own free will" in the matter. The Board has raised no question but that the employees whose names appear on the aforesaid petition did in fact sign the same. Nor is it suggested or contended from any source that the petitioners or either of them compelled, coerced, induced or influenced these employees to sign this petition or to assert and declare themselves as set forth therein. It is not claimed, either by the Board or by the Union, that the petition contains any misstatement of fact. Nor is it claimed, either by the Board or by the Union, that the Union does in fact now rep-

resent any of the Company's employees in the bargaining unit here involved.

7. By reason of all the matters above set forth, the Company, on February 9, 1943 and thereafter, failed and refused to bargain collectively with the Union as the representative of its Charlotte employees.

8. On or about September 27, 1943, the Board, though informed of all the facts and circumstances herein set forth, filed in the United States Circuit Court of Appeals for the Fourth Circuit a petition asking that the Company and its president be adjudged in contempt of that Court for having failed to comply with that provision of the Board's order, as affirmed by the court, which directed the Company to bargain upon request with this Union as the exclusive representative of the Company's Charlotte employees. The Company and its president filed answer and prayed the Court that the provision of its decree which they had not complied with be modified in view of the new matters set forth in their answer, and further prayed the Court that by reason of such matters, they be not adjudged in contempt of court. Argument was heard by the Court upon the pleadings thus filed, and on January 11, 1944, the Court, though divided in opinion, rendered its decree adjudging the Company and its President in contempt; wherefore, the Company and its President now petition this Court for writ of certiorari.

9. By virtue of the provisions of Section 347 of Title 28, U. S. C. A., this Court has jurisdiction to grant this petition and review the decree of the court below adjudging the petitioners to be in contempt. The petitioners respectfully urge that the Court should do so, for the reason that a proper and just determination of the issue now presented is of importance in the administration of the National Labor Relations Act and will greatly aid, to the

general public benefit, in the disposition of controversies arising under that Act.

Wherefore, the petitioners respectfully pray the Court for a writ of certiorari directed to the United States Circuit Court of Appeals for the Fourth Circuit and commanding that Court to certify and send to this Court a transcript of the record and all proceedings in this cause, to the end that the cause may be reviewed and determined by this Court as is by law provided; and upon such review, the petitioners pray the Court to modify the original decree of the court below with respect to that provision of said decree which is involved in this proceeding; and the petitioners pray that they be adjudged not in contempt of court; and they pray that they may have such other and further relief or remedy as to the Court may seem just and proper.

WHITEFORD S. BLAKENEY,  
*Counsel for Petitioners.*

GUTHRIE, PIERCE & BLAKENEY,  
*Of Counsel.*

NORTH CAROLINA,  
*Mecklenburg County:*

L. A. Raulerson, being duly sworn, deposes and says that he is one of the petitioners above named and that he is an officer of the other petitioner above named, Great Southern Trucking Company, to-wit, its President; that he knows the contents of the foregoing petition and that the same is true to his own knowledge, except as to any matters therein stated upon information and belief, and as to these, he believes said petition to be true.

L. A. RAULERSON.

Subscribed and sworn to before me, this the 6th day of March, 1944.

MARY S. COOK,  
*Notary Public.*

[SEAL.]

My commission expires 10-2-44.